

JAMES D. BOYLE, ESQ.
Nevada Bar No. 8384
E-mail: jboyle@nevadafirm.com
HOLLEY, DRIGGS, WALCH, FINE,
WRAY, PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

DAVID H. BECKER, ESQ., *Pro Hac Vice*
Oregon Bar No. 081507
E-mail: davebeckerlaw@gmail.com
LAW OFFICE OF DAVID H. BECKER, LLC
833 SE Main Street # 302
Portland, OR 97214
Telephone: (503) 388-9160

Of Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JUDY BUNDORF, *et al.*,
Plaintiffs,

v.

RYAN ZINKE¹, *et al.*,
Defendants,

and

SEARCHLIGHT WIND ENERGY, LLC

Intervenor.

CASE NO.: 2:13-cv-616-MMD-PAL

**SECOND DECLARATION OF
JUDY BUNDORF**

¹ Ryan Zinke, S.M.R. Jewell's successor as Secretary of the Interior, is automatically substituted as a party under Fed. R. Civ. P. 25(d).

1 I, JUDY BUNDORF, state and declare as follows:

2 1. My name is Judy Bundorf. I am the same Judy Bundorf who previously submitted
3 a declaration in this matter in support of the plaintiffs' motion for summary judgment (ECF No.
4 41, dated January 31, 2014). The following matters are personally known to me, and if called as
5 a witness I would and could truthfully testify thereto.

6 2. I own a home on approximately 90 acres of property located about 1.25 miles
7 north of the proposed site of the former Searchlight Wind Energy Project. Our land is a private
8 inholding within the land managed by the Bureau of Land Management as the Piute-Eldorado
9 Area of Critical Environmental Concern, which abuts the site where the wind project was
10 proposed. I have been advocating for the preservation of the natural condition of the lands where
11 the project would have been built since I first became aware of the wind project in late 2008. I
12 have been involved in various processes before the Bureau of Land Management, Clark County,
13 the Public Utility Commission of Nevada, and this Court ever since, seeking to halt this project
14 or at least insure that the agencies involved complied with the law. Beginning in late 2010, in
15 coordination with Kevin Emmerich and Laura Cunningham of Basin and Range Watch, I
16 contacted eight attorneys in Nevada seeking someone who would represent us to challenge this
17 ill-conceived, poorly-sited, and environmentally inappropriate wind energy project. We were
18 unable to find any qualified attorneys in Nevada willing to represent us at the EAJA rate, and
19 instead, in early 2012, we engaged Dave Becker, a Portland, Oregon-based environmental lawyer
20 with previous expertise in litigating industrial-scale energy projects and working on endangered
21 species and public lands protection issues. Given his extensive and rather unique expertise, Mr.
22 Becker also was not willing to represent us at the EAJA statutory rate, nor were his colleagues
23 who also participated in the litigation, including his Portland-based co-counsel Erin Madden and
24 his Las Vegas-based local counsel Stacy Harrop, Donna Wittig, and Jim Boyle.

25 3. This lawsuit achieved everything that we hoped when we engaged Mr. Becker to
26 help us comment on the Draft Environmental Impact Statement for the Searchlight Wind project
27 and preserve the legal issues for our intended lawsuit. We had hoped that this Court would hold

1 that the decisions of the Bureau of Land Management and U.S. Fish and Wildlife Service
2 authorizing the project violated the law and would vacate the decisions and remand them to the
3 agencies to correct the legal errors. The Court did exactly that, sending the decisions back to the
4 agencies for further review after identifying a slew of legal deficiencies. But with the vacatur of
5 the Final Environmental Impact Statement, the Record of Decision, and the Biological Opinion,
6 and the subsequent dismissal by the Ninth Circuit of Searchlight Wind Energy LLC's appeal, we
7 achieved even more than we had hoped for: the project's owner has relinquished its right-of-way
8 for the project, and the Bureau of Land Management has closed the project file. The Searchlight
9 Wind Energy Project has ceased to exist—even the meteorological mast that had stood on public
10 land within view of our house for nearly nine years finally came down in May 2017. Given our
11 goal of preserving the natural conditions of the lands in the Searchlight hills and mountains, this
12 lawsuit achieved the best result we could have hoped for, and this Court's acknowledgement of
13 the importance of this area for desert tortoises and golden eagles will make any future attempts to
14 develop an industrial scale energy project in this area very difficult indeed.

15 4. As I explained in my previous declaration, the photo simulations on the following
16 page show what the Searchlight hills look like now, and what they might have looked like had
17 the Searchlight Wind project been built. I include these again below to illustrate just how
18 excellent the outcome of this case was. The first photo is an accurate representation of the
19 condition of the project area both in 2014 and currently, showing the Searchlight Hills with Lake
20 Mohave on the Colorado River (part of the Lake Mead National Recreation Area) in the
21 background. The second photo (the simulation) is accurate as to the relative size and placement
22 of the turbines, but does not show the massive damage that would have occurred for the
23 construction of roads to each turbine, and the leveling of several acres for each turbine. This
24 simulation also appears as page AR00004557 in the record in this case. The first photo shows
25 how the land *still* looks—an area that provides a tranquil place for quiet recreation and
26 contemplation and an intact desert ecosystem for desert tortoises, big horn sheep, eagles and
27

1 other birds. Thanks to the outcome of this suit, the Searchlight Wind Energy Project will never,
2 ever be built or disturb the natural beauty and ecological integrity of the Searchlight hills.

3
4 **EXHIBIT 21**

5 **Seachlight Wind Project New Visualizations**



14 ^Beautiful hills next to the town of Searchlight in southern Nevada, with Lake Mohave (part of
15 the Colorado River) in the background currently...



24
25 00004557
26
27

1 5. I am also the founder of Friends of Searchlight Desert and Mountains, another
2 plaintiff in this case, and am active in several other community groups, including Basin and
3 Range Watch, which were concerned about the Searchlight Wind project's effects on the
4 Searchlight area. I formed Friends of Searchlight Desert and Mountains to coordinate the efforts
5 of the local community to oppose the Searchlight Wind project. Friends of Searchlight Desert
6 and Mountains was never incorporated, depending solely on volunteers for its advocacy efforts
7 and informal donations for signs and to host a small website and Facebook page.

8 6. At the time this suit was filed, I individually had assets of approximately
9 \$1,832,795 and liabilities of approximately \$99,071, for a net worth of approximately
10 \$1,733,724. At the time this suit was filed, Friends of Searchlight Desert and Mountains had no
11 employees and no assets or liabilities, and about 20 volunteers and supporters who came to
12 rallies and public hearings to oppose the project.

13 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
14 and correct.

15 DATED this 10th day of September 2017

16
17 
18 Judy Bundorf

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b); LR 5-1

I certify that on the date indicated below, I filed the foregoing document(s) with the Clerk of the Court using the CM/ECF system, which would provide notification and a copy of same to counsel of record.

Dated: September 15, 2017

/s/ David H. Becker